

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EVOLVED WIRELESS, LLC,

Plaintiff,

v.

HTC CORPORATION and
HTC AMERICA, INC.,

Defendants.

C.A. No. 15-cv-00543-JFB-SRF

EVOLVED WIRELESS, LLC,

Plaintiff,

v.

LENOVO GROUP LTD.,
LENOVO (UNITED STATES) INC., and
MOTOROLA MOBILITY,

Defendants.

C.A. No. 15-cv-00544-JFB-SRF

EVOLVED WIRELESS, LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.
and SAMSUNG ELECTRONICS
AMERICA, INC.,

Defendants.

C.A. No. 15-cv-00545-JFB-SRF

EVOLVED WIRELESS, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 15-cv-00546-JFB-SRF
)	
ZTE (USA) INC.,)	
)	
Defendants.)	
)	
EVOLVED WIRELESS, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 15-cv-00547-JFB-SRF
)	
MICROSOFT CORPORATION,)	
MICROSOFT MOBILE OY and)	
MICROSOFT MOBILE INC. (f/k/a NOKIA)	
INC.),)	
)	
Defendants.)	

**JOINT [PROPOSED] STIPULATION TO STAY PROCEEDINGS
PENDING RESOLUTION OF APPEALS OF THE AUGUST 9, 2019 FINAL JUDGMENT
IN THE *EVOLVED V. APPLE* CASE**

WHEREAS, on October 3, 2018, this Court set dates for jury trials in the five above-captioned cases, commencing between January, 21, 2020 and March 28, 2020, for Defendants HTC Corporation and HTC America, Inc. (collectively, “HTC”), Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, “Samsung”), Motorola Mobility (“Motorola”), ZTE (USA) Inc. (“ZTE”), and Microsoft Corporation, Microsoft Mobile OY, and Microsoft Mobile Inc. (f/k/a Nokia Inc.) (collectively “Microsoft”) (collectively “Defendants”) (D.I. 432);¹

¹ Docket cites herein are to the docket in C.A. No. 15-cv-542-JFB-SRF.

WHEREAS, on March 5, 2019, this Court adopted a Joint Proposed Pretrial Order setting certain case deadlines consistent with the previously ordered trial dates (March 5, 2019 Oral Order),

WHEREAS, on April 4, 2019, a jury reached a verdict finding no infringement of U.S. Patent Nos. 7,809,373 (the “’373 patent”) and 7,881,236 (the “’236 patent”) by the accused products sold by Apple Inc. in *Evolved Wireless, LLC v. Apple Inc.*, C.A. No. 1:15-cv-00542-JFB-SRF (the “Apple Case”) (D.I. 519);

WHEREAS, Plaintiff Evolved Wireless LLC filed post-trial motions asserting, *inter alia*, that it was entitled to a new trial as a result of various decisions in the Apple Case, including, but not limited to, the Court’s exclusion of evidence of Defendant Apple’s alleged inconsistent acts and statements, and other evidence Plaintiff contended was relevant to the jury’s determination of infringement;

WHEREAS, on June 13, 2019, pursuant to Magistrate Judge Fallon’s request, Plaintiff and Defendants submitted a joint letter in which Defendants stated their contention “that the pretrial conference, all pretrial deadlines, and the [] Defendants’ jury trials regarding infringement should be vacated given the collateral estoppel effects of the jury’s determination of non-infringement as to Apple. Alternatively, the [] Defendants believe all of these dates should be stayed until all appeals are exhausted in regards to the *Evolved Wireless v. Apple* case.” In the joint letter, Plaintiff disagreed with Defendants’ assertion that the result in the Apple Case collaterally estopped any claim against the remaining Defendants. (D.I. 538);

WHEREAS, on August 9, 2019, the Court denied Plaintiff’s post-trial motions and entered Final Judgment in the Apple Case (DI. 544); and

WHEREAS, Plaintiff intends to appeal the Final Judgment in the Apple Case;

WHEREAS, on August 20, 2019, Plaintiff and Defendants met and conferred, Defendants stated that, absent a stay of the above-captioned cases, Defendants intend to seek leave to file a motion for judgment of collateral estoppel, and Plaintiff reiterated its position that collateral estoppel does not apply;

WHEREAS, notwithstanding the parties' disagreement on the application or not of collateral estoppel in the above-captioned cases, the parties agree that other efficiencies in the above-captioned cases will be achieved upon resolution of the appeal of the Final Judgment in the Apple Case;

IT IS HEREBY STIPULATED and agreed by the parties to the above-captioned cases, subject to the approval of the Court, that:

1. The above-captioned cases are immediately stayed (including suspension of all pending deadlines and trial dates) pending the final resolution of all appeals in the Apple Case;
2. Defendants reserve their right to seek the Court's leave to file a motion for judgment of collateral estoppel, but will not seek such leave before the stay is lifted.

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Dated: August 29, 2019

SO ORDERED this _____ day of _____, 2019.

United States Magistrate Judge